

**REMARKS**

The present invention generally relates to use of cationic oxidized polysaccharide compositions in personal care and household compositions and specifically relates to compositions containing cationic conditioning polymers that not only have good conditioning performance with broad surfactant compatibility, but also are economical to formulate in compositions where clarity is not necessarily an issue.

**Claim Rejections – 35 USC § 112**

In paragraph 11, the Office Action, claims 1-19, 21-45 and 63-75 were rejected under 35 USC § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Office Action states that the phrase “ wherein the personal care or household care composition containing 2% by weight of the cationic, oxidized polysaccharide or derivative thereof has a light transmittance of less than 84% as a wavelength of 600 nm in an aqueous solution” recited in the instant claim 1 is not supported by the instant specification.

Applicants have amended claim 1, to recite the values for Example 21 contained in Table 9, on page 34 of the application as filed. In particular, Table 9 recites that Example 21, a material of the present invention, as having a light transmittance of 83.8% at 600 nm for a personal care or household care composition containing 1.82% of the cationic, oxidized polysaccharide or derivative thereof. Since the present amendment removes the rounded values presented in the previous response and provides values as recited in Table 9 of the specification as originally presented, Applicants respectfully submit that claim 1 as currently presented, fully complies with the written description requirement and is in good and proper order.

Applicants respectfully submit that the above-mentioned amendment corrects and clarifies the issues raised in their previous response. Applicants respectfully submit that claims 2-19, 21-45 and 63-75, which are dependent upon claim 1 are also now in good and proper order and respectfully request allowance of all of these claims.

**Claim Rejections – 35 USC § 102 and § 103**

The Office Action maintained its rejection of claims 1-19, 21-45 and 63-75 under 35 USC § 102(e) as anticipated by or, in the alternative, under 35 USC § 103 (a) as obvious over Erazo-Majewicz et al., US 2003/0211952. Additionally, the Office Action maintained its rejection of claims 1-19, 21-45 and 63-75 under 35 USC § 102(e) as anticipated by or, in the alternative, under 35 USC § 103 (a) as obvious over Erazo-Majewicz et al., WO 03/095497.

As previously stated in their past two responses, Applicants wish to note that Erazo-Majewicz et al., US 2003/0211952 and Erazo-Majewicz et al., WO 03/095497 are two members of the same family of cases and therefore the disclosures of these two documents are identical. While wishing to be fully responsive to the rejections presented in the Office Action, Applicants wish to respond to the rejections based on both Erazo-Majewicz et al., US 2003/0211952 and Erazo-Majewicz et al., WO 03/095497 at the same time and will refer to both documents collectively as "Erazo-Majewicz et al."

Erazo-Majewicz et al. discloses a personal care or household care composition comprising a cationic polygalactomannan that has a molecular weight lower limit of 5,000 and an upper limit of 200,000. Erazo-Majewicz et al. additionally discloses the use of these materials in personal and household care products. However, Applicants wish to point out that the cationic polygalactomannans taught in Erazo-Majewicz et al., "...deliver clear formulations across a range of surfactant systems and across a range of polymer concentrations, in personal care and household products." (Column 4, lines 15-18.) (Emphasis added). The compositions of Erazo-Majewicz et al. are taught as being "...particularly useful for applications where clarity of the final product is required, such as in personal care and household product applications." (Column 1, lines 13-15.) (Emphasis added).

In contrast, Applicants' invention is directed towards personal care or household care compositions comprising at least one cationic, oxidized polysaccharide or derivative thereof where rather than the clear formulations of Erazo-Majewicz et al., the compositions of the present invention when measured containing 1.82%, 4.55%, 7.27%, 9.10% and 13.64% by weight of the cationic, oxidized polysaccharide or derivative had light transmittance of 83.8%, 71.6%, 62%, 57.7% and 43.5% respectively at a wavelength of 600 nm in an aqueous solution.

Applicants respectfully traverse the rejection of claims 1-19, 21-45 and 63-75 under 35 USC § 102(e) as anticipated by or, in the alternative, under 35 USC § 103 (a) as obvious over Erazo-Majewicz et al. for the reasons that Erazo-Majewicz et al. teaches clear formulations with a cationic polygalactomannan while the present inventive cationic, oxidized polysaccharides result in non-clear formulations.

Applicants respectfully submit that the present personal care or household care compositions containing cationic oxidized polysaccharide would not be anticipated by the teachings of Erazo-Majewicz et al. since its teachings are clearly directed to clear formulations with a cationic polygalactomannan. Applicants' personal care or household

care compositions when measured containing 1.82%, 4.55%, 7.27%, 9.10% and 13.64% by weight of the cationic, oxidized polysaccharide or derivative, the compositions exhibit a light transmittance of 83.8%, 71.6%, 62%, 57.7% and 43.5% respectively at a wavelength of 600 nm in an aqueous solution.

Applicants also respectfully assert that a person having ordinary skill in the art would not find the present invention obvious in view of the teaching contained in Erazo-Majewicz et al. since the present invention is directed to the production of personal care or household care compositions with a light transmittance of 83.8%, 71.6%, 62%, 57.7% and 43.5% when measured containing 1.82%, 4.55%, 7.27%, 9.10% and 13.64% by weight respectively of the cationic, oxidized polysaccharide or derivative at a wavelength of 600 nm in an aqueous solution and Erazo-Majewicz et al. is focused on the production of clear products. The person having ordinary skill in the art would not be motivated to substitute the personal care or household care compositions with a light transmittance of 83.8%, 71.6%, 62%, 57.7% and 43.5% measured containing 1.82%, 4.55%, 7.27%, 9.10% and 13.64% by weight respectively of the cationic, oxidized polysaccharide or derivative at a wavelength of 600 nm in an aqueous solution as disclosed in the present application for the clear products taught in Erazo-Majewicz et al.

In the present Office Action, the Examiner assert that both Erazo-Majewicz et al references clearly disclose that their compositions have a light transmittance in a 10% aqueous solution of greater than 80% at a light wavelength of 600 nm, which are within the scope of the presently claimed invention.

Applicants respectfully disagree with the assertion by the Examiner regarding the whether the disclosure of a composition having a light transmittance in a 10% aqueous solution of greater than 80% at a wavelength of 600 nm is within the scope of the presently claimed invention. Applicants respectfully direct the Examiner's attention to the values for Examples 21-25 contained in Table 9, on page 34 of the application as filed, and in particular Examples 24 and 25. While the present specification does not contain a measurement for a sample having a 10% solution, it does have a measurements below 10% and above 10%, namely for 9.10% and 13.64% solutions. For an aqueous solution having 9.10%, the light transmittance at a light wavelength of 600 nm was determined to be 57.7%. This value is significantly below the "greater than 80% transmittance" disclosed in Erazo-Majewicz et al. For an aqueous solution having 13.64%, the light transmittance at a light wavelength of 600 nm is even lower at 43.5%. It is fair to assume that a 10% solution of the present composition would have a light transmittance at a light wavelength of 600 of between 57.7%

and 43.5%, which is significantly below the "greater than 80% transmittance" disclosed in Erazo-Majewicz et al.

In view of the above, Applicants respectfully submit that the rejection of claims 1-19, 21-45 and 63-75 under 35 USC § 102(e) as anticipated by or, in the alternative, under 35 USC § 103 (a) as obvious over Erazo-Majewicz et al. has been traversed, and Applicants respectfully request withdrawal of this rejection and allowance of the claims.

#### **Double Patenting**

The Office Action rejected claims 1-19, 21-45 and 63-75 on the ground of nonstatutory obviousness-type double patenting over the claims 1-56 of US Patent No. 7,067,499.

Applicants respectfully submit, in view of the amendments made to claim 1 in the present response, the arguments presented in response to the rejection of claims 1-19, 21-45 and 63-75 under 35 USC § 102(e) as anticipated by or, in the alternative, under 35 USC § 103 (a), as well as the presentation of new claims 77-80, the grounds for the nonstatutory obviousness-type double patenting rejection over US Patent No. 7,067,499 ("Erazo-Majewicz et al.") has been overcome. As such, the Applicants respectfully request that the nonstatutory obviousness-type double patenting rejection of claims 1-19, 21-45 and 63-75 over US Patent No. 7,067,499 be withdrawn.

The Office Action provisionally rejected claims 1-45 and 63-75 on the ground of nonstatutory obviousness-type double patenting over the claims 1-76 of copending Application No. 11/202,469.

If the Examiner determines that the present application contains patentable subject matter, the Applicants will agree to file in a timely manner a terminal disclaimer in compliance with 37 CFR 1.321 to overcome the provisional rejection of the claims contained in the present application over the claims 1-76 of copending Application No. 11/202,469.

#### **Amendment to Claim**

Applicants have amended claim 1, to recite the values for Example 21 contained in Table 9, on page 34 of the application as filed.

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**New Claims**


Applicants have presented new claims 77-80 in this response. The support for these claims can be found on Table 9, on page 34 of the application as filed. These new claims are supported by Examples 22-25.

**CONCLUSION**

In view of the reasons set forth above, Applicants respectfully request withdrawal of the above-mentioned rejections of record, and the allowance of all pending claims, and the holding of this application in condition for allowance. If any points remain of issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the below-listed telephone number.

Except as otherwise stated in the above-noted remarks, Applicants notes that each of the amendments have been made to place the claims in better form for U.S. practice, not to distinguish the claims from prior art references, otherwise narrow the scope of the previously pending claims or comply with the other statutory requirements.

Respectfully submitted,

  
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